

## REMARKS

Upon entry of the amendments above, claims 1-10 will be pending in this application. Applicants have amended the specification in response to the Examiner's suggestion at the top of page 2 of the Action. Applicants have amended the claims to improve their language; new claims 9 and 10 have been added to round out the coverage to which applicants are entitled.

Claims 1-8 stand provisionally rejected for obviousness-type double patenting over claims 1-8 of Serial No. 09/383,731. Since this rejection is provisional, applicants need take no action on it until the cited claims have issued in a patent.

In response to the rejection of claims 1-8 under 35 USC 112, second paragraph, applicants have amended the claims to change "polyolefin-based" to --comprising a polyolefin-- and to change "polypropylene-based" to --comprising polypropylene--. These amendments broaden the scope of the claims. Applicants do not agree with the Examiner that persons skilled in this art would not understand "polyolefin-based" or "polypropylene-based resin," but they have chosen to amend the claims to overcome the rejection because the amendments do not narrow the claims and thus do not introduce prosecution history estoppel.

Claim 1 has been revised to delete the "optionally" language. In any event, since claim 1 originally recited "*up to* 800 ppm fatty amides comprising stearamide or erucamide," the claim covered laminates containing no fatty acid amides.

Finally, claim 8 is not redundant. Claim 7 was amended by a Preliminary Amendment filed November 5, 1999, to indicate that the anti-block material recited therein is in addition to the second additive set forth in claim 1. Claim 8 further defines the second additive of claim 1. This difference is apparent from the language of clean claims 7 and 8 set forth above. Withdrawal of the rejection under 35 USC 112, second paragraph, is respectfully requested.

Claims 1-8 stand rejected under 35 USC 103(a) on Balloni '612 in view of Balloni '125 and Kondo. This rejection is respectfully traversed.

Balloni '612 and '125 both disclose three-layer laminates in which waxes and/or other additives are present in the two skin layers surrounding a core layer. The invention as claimed is directed to laminates containing the claimed two layers "formed on and adhered to" each other, that is, without a resin layer between them.<sup>1</sup> Persons of ordinary skill in this art would not have been motivated to omit the core layer of the Balloni references for any purpose, since it is, as pointed out at col. 5, lines 1-3, of Balloni '612, "Core layer (b) will usually represent from about 70 to about 90 percent of the thickness of the overall film laminate or an even higher percentage thereof." Balloni '125 does not specify the thickness of the base layer, but it is apparent from the disclosures of both Balloni references that the core layer, disposed between the surface layers incorporating additives, is an essential component of the laminate that imparts the essential physical strength of the laminate. The Balloni references assume the presence of the core or base layer as a given, as the outer, additive-containing layers are relatively thin and are not disclosed as being capable of functioning as films by themselves.

The Examiner's rejection is based on the premise that "where the claimed and prior art products are identical or substantially identical in structure or composition, or are produced by identical or substantially identical processes, a prima facie case of anticipation or obviousness has been established." Action, page 6. This premise does not apply where, as here, the claimed product is substantially different from the prior art product and lacks an element (the core layer comprising 70-90 percent of the thickness of the laminate) that persons of ordinary skill in the art

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<sup>1</sup> On page 4 of the Action dated October 19, 2001, in related application Serial No. 09/383,731, the same Examiner stated that claims in that application similar to those in this application, using the term "formed on and adhered to a surface of said first resin layer opposite the treated surface having said surface treatment," do "not preclude the presence of an intervening layer such as the isotactic core layer of the structures taught by Balloni et al. (4,659,612)." This is not a reasonable interpretation, since the interposition of such a core layer would preclude the mixed resin layer from being formed on the surface of the first resin layer, as the claims require. Such a structure would have the mixed resin layer formed on the core layer, not the first resin layer. Therefore, no person skilled in this art would consider the resin layers of the claims in this application to be "formed on and adhered to" each other if a core layer is interposed between them.

would not have been motivated to omit without the hindsight knowledge of this invention. The rejection of the claims under 35 USC 103(a) should be withdrawn.

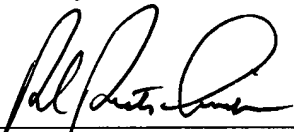
Early action allowing claims 1-10 is solicited.

Attached hereto is a marked-up version of the changes made to the specification and claims by this amendment, captioned "**Version marked to show changes made**".

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952**, Ref. 361752000100. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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**VERSION MARKED TO SHOW CHANGES MADE**

**In the Specification:**

Page 1, before line 4, insert the following:

**--Reference to Related Application**

This application claims priority from Provisional Application Serial No. 60/111,598, filed December 2, 1998.--

**In the Claims:**

Please amend claims 1-8, as follows:

1. (Amended) A [polyolefin-based] laminate film, [comprising of at least 2 layers, said film] comprising:

a) a first [polyolefin-based] resin layer comprising a polyolefin resin and having a surface treated by a discharge treatment method that imparts excellent printability to the treated surface; and

b) a [polyolefin-based] mixed resin layer comprising a polyolefin resin formed on [one] and adhered to a surface of said first [polyolefin-based] resin layer opposite [of said] the treated surface having said surface treatment,

wherein[,]the first [polyolefin-based] resin layer and the [polyolefin-based] mixed resin layer [optionally] each contain up to 800 ppm fatty amides comprising stearamide or erucamide and the [polyolefin-based] mixed resin layer contains a first additive material comprising at least one crosslinked silicone polymer in an amount of about 0.1% - 0.5% by weight of the [polyolefin-based] mixed resin layer and/or at least one silicone oil[,] in an amount of about 0.02% - 0.2% by weight of the [polyolefin-based] mixed resin layer, and a second additive material[,] comprising at least one amorphous aluminosilicate in an amount of about 0.10 - 0.50% by weight of the [polyolefin-based] mixed resin layer[, which comprises at least one amorphous aluminosilicate].

2. (Amended) The [polyolefin-based] laminate film according to claim 1, wherein said first [polyolefin-based] resin layer has a thickness of about 6 - 40  $\mu\text{m}$ .

3. (Amended) The [polyolefin-based] laminate film according to claim 1 or 2, wherein said first [polyolefin-based] resin layer consists essentially of [polypropylene-based] a polypropylene resin.

4. (Amended) The [polyolefin-based] laminate film according to claim 1 or 2, wherein said [polyolefin-based] mixed resin layer has a thickness of about 0.2 - 5.0  $\mu\text{m}$ .

5. (Amended) The [polyolefin-based] laminate film according to claim 1 or 2, wherein said [polyolefin-based] mixed resin layer consists essentially of [polypropylene-based] a polypropylene resin.

6. (Amended) The [polyolefin-based] laminate film according to claim 1, wherein at least one component of said first additive material is a crosslinked silicone resin having a spherical average particle size of 2 - 5  $\mu\text{m}$ , a specific gravity of 1.32 at 25°F, a bulk density of 0.15 - 0.50, and a linseed oil absorption rate of 50 - 90 ml/100g; and/or at least one component of said first additive material] or is a silicone oil having viscosity of 300 - 400 cSt., specific gravity at 77°F of 0.90 - 0.99, and volatile content of 0.001 - 0.005%.

7. (Twice Amended) The [polyolefin-based] laminate film according to claim 1, further comprising an anti-block material which is an amorphous sodium calcium aluminosilicate having a particle size of 2 - 5  $\mu\text{m}$  and a bulk density of 0.30 - 0.80 g/cm<sup>3</sup> or an amorphous aluminosilicate having a particle size of 2 - 5  $\mu\text{m}$  and a bulk density of 0.10 - 0.30 g/cm<sup>3</sup>.

8. (Amended) The [polyolefin-based] laminate film according to claim 1, wherein at least one component of said second additive material is an amorphous sodium calcium aluminosilicate having a particle size of 2 - 5  $\mu\text{m}$  and a bulk density of 0.30 - 0.80 g/cm<sup>3</sup>; or an amorphous aluminosilicate having a particle size of 2 - 5  $\mu\text{m}$  and a bulk density of 0.10 - 0.30 g/cm<sup>3</sup>.